

*City of Las Vegas*

**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: JANUARY 22, 2009**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: SUP-32492 - APPLICANT/OWNER: MY CHARLESTON PLAZA, LLC**

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**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION:**      **APPROVAL**, subject to:

**Planning and Development**

1. Conformance to all Minimum Requirements under LVMC Title 19.04.010 for Package Liquor Off-Sale Establishment use.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. Approval of this Special Use Permit does not constitute approval of a liquor license.
4. The sale of individual containers of any size of beer or wine coolers is prohibited. All such products shall remain in their original configurations as shipped by the manufacturer. Further, no repackaging of containers into groups smaller than the original shipping container size shall be permitted.
5. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
6. No temporary signs such as banners, pennants, inflatable objects, streamers, flags, or other similar attention gaining item or devices shall be displayed upon the subject property or in the parking lot of the subject property without the appropriate permits.
7. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Special Use Permit for property located at 5100 West Charleston Boulevard, for a proposed Package Liquor Off-Sale Establishment within an existing commercial development. As this proposed development requires no Waivers of Title 19 standards and is an appropriate use for the area, staff recommends approval.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i>	
12/18/63	The Board of City Commissioners approved a request for a Rezoning (Z-0168-63) of property generally located on the north side of West Charleston Boulevard between Brush Street and Mohawk Avenue from R-1 (Single Family Residential) to C-1 (Limited Commercial).
03/18/64	The Board of City Commissioners approved a request for a Rezoning (Z-0013-64) of property generally located on the north side of West Charleston Boulevard between Decatur Boulevard and Upland Boulevard from R-1 (Single Family Residential) to C-1 (Limited Commercial).
05/20/64	The Board of City Commissioners approved a request for a Rezoning (Z-0013-64) of property generally located on the northwest corner of West Charleston Boulevard and Brush Street from R-1 (Single Family Residential) to C-1 (Limited Commercial).
08/20/64	The Board of City Commissioners approved a request for a Rezoning (Z-0065-64) of property generally located on the north side of West Charleston Boulevard between Decatur Boulevard and Upland Boulevard from R-1 (Single Family Residential) to C-1 (Limited Commercial).
09/24/74	The Planning Commission approved (final action) a request for a Plot Plan Review [Z-0006-66(16)] for a 24,400 square-foot building on property generally located on the north side of West Charleston Boulevard between Brush Street and Upland Boulevard.
12/07/94	The City Council approved a request for a Special Use Permit (U-0287-94) for a Class III Secondhand Sales (Used Books) use at 5100 West Charleston Boulevard. The Board of Zoning Adjustment recommended approval.
01/28/08	Code Enforcement processed a complaint (case #61482) for graffiti on the east wall of the building at 5100 West Charleston Boulevard. The case was resolved on 02/05/08.
03/18/08	Code Enforcement processed a complaint (case #63535) for graffiti on the east wall of the building and on the dumpster at 5100 West Charleston Boulevard. The case was resolved on 03/19/08.

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<b><i>Related Building Permits/Business Licenses</i></b>	
05/18/01	A business license (#B06-01502) was issued for a book store / video store / gift store at 5100 West Charleston Boulevard. The business license is active.
09/20/07	A building permit (#92916) was issued for a tenant improvement at 5100 West Charleston Boulevard. The permit was finalized on 01/02/09.
<b><i>Pre-Application Meeting</i></b>	
01/24/08	The requirements for a Special Use Permit for a Packaged Liquor Off-Sale Establishment were discussed with the applicant.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting was not required, nor was one held.	

<b><i>Field Check</i></b>	
12/17/08	Staff conducted a site visit of the subject location and noted it to be vacant. Staff noted non-permitted barbed wire on the rear of the establishment, which has been referred to code enforcement.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	0.68

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Retail Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	Senior Apartments	ML (Medium Low Density Residential)	R-5 (Apartment)
South	Retail Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
East	Retail Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
West	Retail Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)

<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Area Plan</b>		X	N/A
<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Purpose and Overlay Districts</b>		X	N/A
A-O (Airport Overlay) District (175 Feet)	X		Y*
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

\* The subject property is located within the North Las Vegas Airport Overlay Map within the 175-foot height limitation contour. None of the buildings on the subject property extend beyond this limitation.

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**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.10, the following parking standards apply:*

Parking Requirement							
Use	Gross Floor Area or Number of Units	Parking Ratio	Required		Provided		Compliance
			Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
General Retail Store, Other than listed (Less than 3,500 square feet) (Proposed Package Liquor, Off-Sale Establishment)	1,930 SF	1:175	11	3	56	3	Y*
General Personal Services (3 Chair Barber Shop)	1,000 SF	2 Spaces per Chair	6				
Financial Institution, Specified	1,000 SF	1:250	4				
General Retail Store, Other than listed (Less than 3,500 square feet)	6,810 SF	1:175	39				
SubTotal			57	3	56	3	
TOTAL			60		59		

*\*Per Title 19.10.010.C, "A land use or building which is existing on the effective date of this Title and which complied with the applicable parking standards at the time the use or building was established, but which does not comply with the requirements of this Section, shall not be considered a nonconforming use or non-conforming building; but rather, it shall be considered a "parking-impaired development."*

**ANALYSIS**

This is a request for a Special Use Permit for property located at 5100 West Charleston Boulevard, for a proposed Package Liquor Off-Sale Establishment within an existing commercial development that has been in operation on the site since 1964. The subject location was previously utilized as a video store that has the same parking standard required for the proposed use. The proposed site is not within proximity of any protected uses and requires no Waivers or Variances. As this proposed development complies with the standards set forth by Title 19 and can be conducted in a harmonious and compatible manner with the surrounding area, staff recommends approval of this request.

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- **Parking**

The site plan indicates 59 parking spaces are provided where 60 are required. The subject commercial center was constructed in 1964 and meets the Title 19.10.010 (C) standard to be considered a Parking Impaired Development. Three handicapped parking spaces are depicted on the submitted site plan, which meets the minimum standards for provided handicapped parking spaces. Title 19.10.010 (c) sets forth the following guidelines for a Parking Impaired Development:

“A land use or building which is existing on the effective date of this Title and which complied with the applicable parking standards at the time the use or building was established, but which does not comply with the requirements of this section, shall not be considered a nonconforming use or a non-conforming building; but rather, it shall be considered a “parking-impaired development.” The following rules shall apply to the remodeling, alteration, expansion or reuse of parking-impaired developments:

1. Building permits and certificates of occupancy may be issued for remodeling or structural alterations of parking-impaired developments without requiring compliance with this Chapter, providing that such work does not increase in the number of required parking spaces.
2. For any remodeling, alteration, or expansion of a parking-impaired development that requires an increase in the number of parking spaces, including the expansion of existing buildings or the construction of new buildings, only the increased number of parking spaces shall be required.
3. For any change of use that requires an increase in the number of required parking spaces, only the increased number of parking spaces shall be required.”

The proposed use does not require more parking than the previous use, therefore is in compliance with Title 19.10 requirements.

- **Use**

Title 19.04 defines the Package Liquor Off-Sale Establishment use as “An establishment, other than a retail establishment with packaged liquor off-sale, whose license to sell alcoholic beverages authorizes their sale to consumers only and not for resale, in original sealed or corked containers, for consumption off the premises where the same are sold. This use includes an establishment that provides on-premises wine, cordial and liqueur tasting if the licensee also holds a wine, cordial and liqueur tasting license for that location.

Per Title 19.04, a Package Liquor Off-Sale Establishment use is allowed only with an approved Special Use Permit in the C-1 (Limited Commercial) zoning district.

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- **Minimum Special Use Permit Requirements**

Package Liquor Off-Sale Establishment” under LVMC 19.04.050.

- \*1. Except as otherwise provided, no package liquor off-sale establishment use (herein after “establishment”) shall be located within 400 feet of any church, synagogue, school, childcare facility licensed for more than twelve children, or City park.
- \*2. Except as otherwise provided in Requirement 3 below, the distances referred to in Requirement 1 shall be determined with reference to the shortest distance between two property lines, one being the property line of the proposed establishment which is closest to the existing use to which the measurement pertains, and the other being the property line of that existing use which is closest to the proposed establishment. The distance shall be measured in a straight line without regard to intervening obstacles. For purposes of measurement, the term “property line” refers to property lines of fee interest parcels and does not include the property line of:
  - a. Any leasehold parcel; or
  - b. Any parcel which lacks access to a public street or has no area for on-site parking and which has been created so as to avoid the distance limitation described in Requirement 1.
- \*3. In the case of an establishment proposed to be located on a parcel of at least 80 acres in size, the minimum distances referred to in Requirement 1 shall be measured in a straight line:
  - a. From the nearest property line of the existing use to the nearest portion of the structure in which the establishment will be located, without regard to intervening obstacles; or
  - b. In the case of a proposed establishment which will be located within a shopping center or other multiple-tenant structure, from the nearest property line of the existing use to the nearest property line of a leasehold or occupancy parcel in which the establishment will be located, without regard to intervening obstacles.
- 4. The minimum distance requirements in Requirement 1 do not apply to:
  - a. An establishment which has a non-restricted gaming license in connection with a hotel having 200 or more guest rooms on or before July 1, 1992 or in connection with a resort hotel having in excess of 200 guest rooms after July 1, 1992; or
  - b. A proposed retail establishment having more than 50,000 square feet or retail floor space.
- \*5. All businesses, which sell alcoholic beverages, shall conform to the provisions of Chapter 6.50 of the Las Vegas Municipal Code.

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Staff finds that the proposed use meets the minimum Title 19.04.010 standards and can be conducted in a harmonious and compatible manner with the subject center and the surrounding area.

## **FINDINGS**

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The subject site is in a busy commercial corridor along a 100-foot Primary Arterial with a variety of retail shopping outlets, restaurants and offices. The proposed use is not out of character with the subject site and can be conducted in a harmonious and compatible manner with the surrounding area.

2. **“The subject site is physically suitable for the type and intensity of land use proposed.”**

The provided parking on the site is adequate for the proposed use, and the site meets all required Title 19.04.010 standards regarding distance separation between Package Liquor Off-Sale Establishments and protected uses.

3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

Defined by the Master Plan of Streets and Highways, the site fronts Charleston Boulevard, a 100-foot Primary Arterial which will easily facilitate the proposed use's traffic requirements.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

The use is consistent with the SC (Service Commercial) General Plan Designation. Public health safety and welfare are not compromised by this proposal as the use requires frequent inspection and rigorous standards must be met by the State of Nevada and the City of Las Vegas.

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**5. The use meets all of the applicable conditions per Title 19.04.**

The use complies with all applicable conditions per Title 19.04

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 12

**ASSEMBLY DISTRICT** 3

**SENATE DISTRICT** 11

**NOTICES MAILED** 485

**APPROVALS** 1

**PROTESTS** 0